

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division
Civil Case Action No. 7:21-cv-00549-MFU

DENIECE PAGANS, JANET SWEET, SAFI M. RIAZ, BESSIE M. MCADAMS, KEITH O. EDWARDS and PETER H. DARGEL,
individually and on behalf of all others similarly situated,

Plaintiffs,

v.

ADVANCE STORES COMPANY,
INCORPORATED and THE
RETIREMENT COMMITTEE OF
ADVANCE AUTO PARTS, INC. 401(k)
PLAN,

Defendants.

**SECOND JOINT MOTION TO EXTEND
FACT DISCOVERY AND ATTENDANT
DEADLINES TO PARTICIPATE IN
MEDIATION**

NOW COME Plaintiffs, Janet Sweet, Safi M. Riaz, Bessie M. McAdams, Keith O. Edwards, and Peter H. Dargel, individually and on behalf of all others similarly situated (“Plaintiffs”) and Defendants, Advance Stores Company, Incorporated (“Advance”) and The Retirement Committee of Advance Auto Parts, Inc. 401(k) Plan (the “Committee”) (collectively, “Defendants”), (together, the “Parties”), by and through their respective counsel, and respectfully request that the Court extend the Deadline to Complete Fact Discovery and all attendant deadlines by sixty (60) days so that the Parties can participate in mediation on October 19, 2023.

1. This is the Parties’ second request for an extension of the Scheduling Order deadlines.
2. The Court entered the Original Scheduling Order on January 24, 2023 (Dkt. 39).
3. While engaged in discovery, the Parties conferred and agreed to attempt to resolve the case through mediation.

4. The Parties then filed a Joint Motion to Extend Fact Discovery and Attendant Deadlines to allow time to mediate the case while conserving both the Parties' and Court's resources (Dkt. 59). In the Joint motion, the Parties requested to extend the Deadline to Complete Fact Discovery by ninety (90) days from July 21, 2023 to October 19, 2023. *Id.*

5. On July 25, 2023, the Court granted the Parties' Joint Motion modifying the Scheduling Order (Dkt. 60). Accordingly, the Current Deadline to Complete Fact Discovery is October 19, 2023. *Id.*

6. Subsequently, the Parties and the mediator have conferred to schedule a date for the mediation; however, the mediator's earliest availability for mediation is mid-October.

7. The Parties and the mediator have agreed to mediate the case on October 19, 2023, which is the same date as the Current Deadline to Complete Fact Discovery.

8. Accordingly, Parties are requesting an extension of the Deadline to Complete Fact Discovery by sixty (60) days from October 19, 2023 to December 18, 2023 to allow time to mediate the case while conserving both the Parties' and Court's resources.

9. The requested extension will affect attendant scheduling deadlines as well. Accordingly, the Parties request the following modifications to the Scheduling Order:

Event	Current Deadline	Requested Deadline
Deadline To Complete Fact Discovery	October 19, 2023	December 18, 2023
Initial Expert Disclosures	November 20, 2023	January 19, 2024
Opposing Expert Disclosures	December 21, 2023	February 19, 2024
Rebuttal Expert Reports	January 22, 2024	March 22, 2024
Deadline To Complete Expert Discovery	March 14, 2024	May 13, 2024
Deadline To File Dispositive Motions	May 1, 2024	July 1, 2024
Opposition To File Dispositive Motions	June 3, 2024	August 2, 2024
Reply In Support of Dispositive Motions	July 2, 2024	September 2, 2024
Deadline For Hearing Dispositive Motions	July 29, 2024, at 9:30 am via zoom	September 27, 2024, at 9:30 am via zoom
Deadline For Hearing Motions In Limine	To Be Determined	To Be Determined

Final Pretrial Conference	November 6, 2024, at 9:30 am via zoom	January 6, 2025, at 9:30 am via zoom
Trial	December 9, 2024, at 9:30 am	February 7. 2025, at 9:30 am

10. The Parties make this motion in good faith for the purpose of attempting to efficiently resolve the case through mediation, and if not successful, to complete needed discovery. Accordingly, this motion is not for the purpose of delay.

WHEREFORE, the Parties respectfully request that this Court modify the Scheduling Order to grant an extension of Deadline to Complete Fact Discovery by sixty (60) days from October 19, 2023 until December 18, 2023, and modify the attendant deadlines affected by this change, as set forth above and the attached proposed Amended Scheduling Order.

Date: August 23, 2023

Respectfully submitted,

CAPOZZI ADLER, P.C.

/s/ Mark K. Gyandoh

Mark K. Gyandoh
(admitted *pro hac*)
312 Old Lancaster Road
Merion Station, PA 19066
Telephone: (610) 890-0200
Facsimile: (717) 233-4103
Email: markg@capozziadler.com

Donald R. Reavey
(admitted *pro hac*)
2933 North Front Street
Harrisburg, PA 17110
Telephone: (717) 233-4101
Facsimile: (717) 233-4103
Email: donr@capozziadler.com

Andrew L. Fitzgerald (VSB No. 20571)
FITZGERALD, HANNA, SULLIVAN, PLLC
119 Brookstown Avenue, Suite 402
Winston-Salem, NC 27101
Telephone: 336-793-4696
Fax: 336-793-4698

Email: andy@fitzgeraldlitigation.com

Aaron B. Houchens (VSB No. 80489)
AARON B. HOUCHENS, P.C.
111 E. Main Street
P.O. Box 1250
Salem, VA 24153
Telephone: 540-389-4498
Fax: 540-339-3903
Email: aaron@houchenslaw.com

COUNSEL FOR PLAINTIFFS

And

JACKSON LEWIS P.C.

/s/ René E. Thorne

René E. Thorne (LA Bar #22875)
(admitted *pro hac*)
601 Poydras Street, Suite 1400
New Orleans, Louisiana 70130
Telephone: (504) 208-1755
Facsimile: (504) 208-1759
Email: René.Thorne@jacksonlewis.com

Phillip C. Thompson (KS Bar #27575)
(admitted *pro hac*)
7101 College Blvd., Ste 1200
Overland Park, KS 66210
Telephone: (913) 982-5759
Facsimile: (913) 982-5758
Email: Phillip.Thompson@jacksonlewis.com

Kevin D. Holden (VSB No. 30840)
701 E. Byrd Street, 17th Floor
Richmond, Virginia 23219
P.O. Box 85068
Richmond, Virginia 23285
Telephone: (804) 649-0404
Facsimile: (804) 649-0403
Email: Kevin.Holden@jacksonlewis.com

COUNSEL FOR DEFENDANTS